



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 23, 1998

Mr. Roland Castaneda  
General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR98-2801

Dear Mr. Castaneda:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119838.

The Dallas Area Rapid Transit ("DART") received a request for information "upon which DART or any of its representatives may have relied in reaching its Contracting Officer's Final Decision of July 7, 1998, Subject: Reimbursement for Audit Findings." You seek to withhold information responsive to the request under section 552.107(1) of the Government Code.

Section 552.107(1) protects information "that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct." *See* Open Records Decision No. 574 (1990). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential client-attorney communications made in furtherance of the attorney's rendering legal services to the entity. *Id.* When invoking section 552.107(1), the governmental body must explain how particular information constitutes such client confidences or communications of legal advice. Open Records Decision No. 589 (1991).

You advise that the records at issue consist of communications between DART and its legal counsel, and "include confidential communications made in furtherance of DART's attorneys rendering professional legal services to the agency. The documents were acquired or drafted by DART attorneys in their capacity as legal advisor; they reveal client confidences or contain legal strategy, advice or opinion related to the matter discussed in the

documents." Based on your representations, we conclude that you have demonstrated that some of the information you have submitted may be withheld under section 552.107(1). In our opinion, however, you have not made a sufficient showing that some of the information constitutes client confidences or communications of legal advice protected by section 552.107(1). We have marked those portions of the information which you must release. The remaining portions may be withheld under section 552.107(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/ch

Ref: ID# 119838

Enclosures: Submitted documents

cc: Mr. Sidney L. Henson  
Beck Program Management  
1700 Pacific Avenue, Suite 3800  
Dallas, Texas 75201  
(w/o enclosures)